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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,976	02/02/2004	Christian Nystrom	P05170C1	8993
23990	7590	12/08/2004	EXAMINER	
DOCKET CLERK P.O. DRAWER 800889 DALLAS, TX 75380			SUMMONS, BARBARA	
			ART UNIT	PAPER NUMBER
			2817	

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/769,976

Applicant(s)

NYSTROM ET AL.

Examiner

Barbara Summons

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004 (pre-amendment).
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 10/093,683.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: On page 1, lines 10-14, note that the sentence should be rewritten to remove all references to claim numbers, especially since claims 13-15 do not exist in this continuing application.

Appropriate correction is required.

2. The abstract of the disclosure is objected to because on line 6, "period" should be -- periodic --; on line 7, "(R8)" should be -- (R*) --; and on line 14, "shift between" should be -- shifter so that the phase difference between --. Correction is required.

See MPEP § 608.01(b).

Claim Objections

3. Claim 1 is objected to because of the following informalities:

In claim 1, on line 4, it appears that "and" should be -- a --.

In claim 1, on line 6, "period" should be -- periodic -- (see lines 8-9).

In claim 1, on line 11, "period" should be -- periodic -- as well.

In claim 1, on line 15, "shifted between the signal (R*)" should be changed to something similar to -- difference between the periodic reference signal (R) and the periodic phase shifted signal (R*) --. Or, see the Patent issued on the parent application at claim 1, lines 15-16 thereof for another appropriate change.

Appropriate correction is required.

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Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,686,809. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter of the claims is identical in scope. Essentially only the preamble differs between the claims, and all elements in the preamble of the instant claim 1 appear in the body of the claims in both the instant application and the Patent, the body of both claims being substantially the same.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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7. Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Okanobu U.S. 5,942,935.

Fig. 6 of Okanobu discloses a device incorporating a method for automatically altering a magnitude of at least one component value (i.e. of variable resistors R_{52} and R_{53})[see e.g. col. 8, lines 51-52] in an analog filter 50 (see col. 8, lines 63-64) in an integrated circuit, the integrated circuit comprising a phase detector 62 for determining a present characteristic of the analog filter relative a desired characteristic, the method involving: receiving a periodic reference signal S_{61} and a phase shifted periodic signal S_{63} (i.e. S_{63} is S_{61} shifted by phase shifting circuit 63) in the phase detector 62 (col. 7, lines 53-54) and producing a test signal (i.e. the output of the phase detector 62) in response to a phase difference between the periodic reference signal S_{61} and the periodic phase shifted signal S_{63} , and characterized by the integrated circuit comprising an adjustable phase shifter 63 (having adjustable resistors R_{62} and R_{63})[see e.g. col. 7, lines 61-65] for receiving the periodic reference signal S_{61} and on the basis thereof producing the periodic phase shifted signal S_{63} , the method further involving: altering a magnitude of at least one component value of the variable resistors adjustable phase shifter 63 in response to a control signal S_{64} (col. 7, lines 61-65) such that the difference between the periodic reference signal S_{61} and the periodic phase shifted signal S_{63} attains a calibrated value that is as close as possible to a desired value of 90 degrees (thus providing a zero test signal value the same as Applicants, see the spec. page 8, lines 3-9 and see Okanobu at col. 7, lines 58-61), the control signal S_{64} being generated (via the filter 64) on the basis of the test signal output from the phase detector 62; and

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setting the at least one component value (R_{52} and/or R_{53}) in the analog filter 50 in accordance with the setting of the at least one component value (R_{62} and/or R_{63}) in the adjustable phase shifter 63 (see col. 7, lines 61-65) which produces the calibrated value.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Barbara Summons whose telephone number is (571) 272-1771. The examiner can normally be reached on M-Th, M-Fr.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Pascal can be reached on (571) 271-1769. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

bs
December 2, 2004



**BARBARA SUMMONS
PRIMARY EXAMINER**